

Senator Eric Coleman

Representative Gerald Fox

Co-Chair Joint Committee on Judiciary

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Room 2500

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Legislative Office Building

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Hartford, Ct. 06106

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February 21, 2012

Dear Chairs and Members of the Judiciary:

The Freedom of Information Act, C.G.S. Chapter 14 (originally C.G.S. 1-200 through 1-227) sets forth the guidelines for proper notice for public administrative meetings to be conducted in the State of Connecticut for all three branches of the government, for public agencies and for its municipalities.

In Section 1-200 (1) and (11), the term defines "public agency" and "government function" and such definitions would appear to include the requirement that the Joint Committee on Judiciary would be considered to be governed by the Freedom of Information Act.

The following abridgments by the Chairs of the Joint Committee on Judiciary of the Freedom of Information Act are hereby alleged:

1. As required in Sec. 1-225 (a) and (b) public notice was to be filed by January 31, 2011 of the rules governing scheduled meetings of the JCJ with the Office of Secretary of State. It appears such a schedule was not posted.
2. The requirements of Sec. 1-225 (b) requires notice to be provided in the odd number years of the joint rules for public notice of "regular, special, emergency or interim committee meetings." While no one is contesting the qualifications or deserving qualities of the interim appointment of the

Honorable Sybil Richards to the bench, the question is whether the JCJ adhered to the Sec. 1-225 (b) public notice requirements set forth for an "interim" committee meeting that was apparently held in November 2011 based upon on the records comments at the February 17, 2012 meeting of the JCJ concerning the appointment of Attorney Richards to the bench. Again, transparent processes are important to the execution of proper government. Therefore, this request is to seek information about the JCJ policies as submitted to the Secretary of State by January 31, 2011 and whether the JCC complied with the FOI Act requirements.

3. According to Chapter 14, Section 225 (b) there could have been no meeting of the JCJ before thirty days of the posting of the rules for public meeting notices required to have been submitted on January 31, 2011. There are question being raised in this letter, as to whether any vote on any issue raised in an unlawfully scheduled meeting conducted between January 31, 2011 and March 2, 2011 would be considered enforceable actions.
4. According to Chapter 14, Section 225 (a), the minutes to public meetings of the legislative committees of the general assembly are not exempt from public access upon request. There are no requirements such minutes be posted on the website, but a requirement such minutes be available within seven days at the public agency's offices. However, there is also no prohibition from the public posting of such minutes on the website. There is a requirement that votes taken however any such meetings be posted on the website within 48 hours.
5. "Compliance" with the FOI Act requires public posting of any votes taken from the meeting conducted on February 10, 2012 within 48 hours. There appears to be no posting of votes on any matters from the February 10, 2012 meeting.
6. You are required by law to not convene tomorrow's hearing for judicial confirmation hearings at 10am, which was publicly announced because you failed to provide 24 hours notice of a public agenda. CT-N has been running promotional announcement concerning the February 22, 2012 meeting of the Joint Committee on Judiciary during the last weekend that noticed the hearing

to begin at 10:00 am. The failure to have posted the public agenda this morning by 10am would suggest that the Freedom of Information Act requirements for 24 hour notice do not apply to the Joint Committee on Judiciary. Changing a publicly noticed meeting from an announced to a "special" meeting status, would also be considered a "willful" attempt to circumvent the public rights to proper notice for FOI Act compliance by the co-chairs of the committee. You are noticed in this letter that convening a meeting tomorrow would be a significant abridgment of FOI Act compliance by the co-chairs of the Joint Committee on Judiciary.

7. Please confirm the timing of the posting of the agenda for February 15, 2012 and February 17, 2012 as been timely posted, as required by Section 1-225 (c) in advance of the 10 am start of such a meeting.
8. Please confirm that there was a quorum of members of the JCJ present at the convening of the February 15, 2012 and February 17, 2012 "public hearings" as is believed to be required by law. The paltry attendance of members at the JCJ's most important function of properly assessing the performance of judges before voting upon their re-confirmations was duly noted in the public comments of this citizen. As the old saying goes, "No taxation without representation" also applies to committee member attendance at the JCJ meetings. As noted, neither Representative William Tong or Representative John Hetherington were present on behalf of the Town of New Canaan and therefore the citizen's of the Town of New Canaan when this citizen spoke to the concerns about the legitimacy of the Judicial Review Council's performance of their duties under the 2011 Code of Judicial Conduct.
9. The Freedom of Information Act 225 (e) does not require a condition of "registration" of name in order to attend proceedings, yet requires a registration of name in order to participate in "addressing" the committee. Please provide a copy of the published guidelines of the JCJ, required to have been submitted to the Secretary of State and approved by the General Assembly for all committees to have been determined by January 31, 2011.

10. Section 1-226 (e) provides injunctive relief from Superior Court for obstructions of further attendance at confirmation hearings to be conducted by the JCJ of this citizen.
11. This citizen is raising "ethical" concerns in this letter for "conflicts of interests" which involve attorneys who practice in a judicial district in which a confirmation of a judge or trial judge referee where a committee member has practiced law or might practice law as a member of the Connecticut Bar Association. The citizens of the State of Connecticut have every right to be concerned that the "conflicts of interest" matters of lawyers voting upon the re-appointment or appointment of positions is a substantial matter of public concern based upon the failure of JCJ members to re-cuse themselves from votes while still referencing appearances that they have made in the courtrooms of judges where the representatives are earning income related to "potentially favored nations decisions" being rendered as a "quid quo pro" to approving judges without regard to attending any of the "dispositive" hearings concerning judge's testimony, public testimony, or asking a single question of judges before casting votes at the end of these confirmation hearings.
12. There would have appeared upon watching the voting on CT-N network, twice on Saturday night February 18, 2012 and Monday morning February 20, 2012, that only three representatives removed themselves for voting on a judge based upon "unidentified potential conflicts of interest: "Representative Auden Grogins (D) from Bridgeport on the renewal vote of Honorable Paul M. Foti of Branford as a trial judge referee, Representative Gerald Fox III (D) Stamford, on the re-nomination vote of the Honorable Alfred J. Jennings of Fairfield as a trial judge referee, and Representative William Tong (D) on the nomination of Donna Nelson Heller as a new Superior Court Judge. Donna Nelson Heller in her sworn testimony prior to questions from the representatives concerning her lack of criminal court experience as an Attorney failed to mention that she was employed in the same law firm of Dixon and Herlihy in Stamford, which also employs Representative Tong and his wife Elizabeth.

13. There is no current published procedure which is posted on the public website for the length of time for a citizen is limited to in addressing the concerns of the procedures of judicial review, nor is there access provided to the forms each judge fills out that are provided to those who sit on the JCJ. Presumably, this information is not provided to the public under the "transparency" exclusion from releasing personal information concerning "appointments" due to provisions in the FOI Act concerning 1-210. However, there are no exclusions in the FOI Act for redacting the information provided in these forms provided to the members of JCJ.
14. It is requested that this letter be posted to the testimony section of the next Joint Committee on Judiciary hearing scheduled for the next two sessions.
15. The letter alleges the failure of the Joint Committee on Judiciary and its chairs to be transparent about the disclosure of the upcoming (as well as the February 15, 2012 and the February 22, 2012) Judiciary Confirmation hearings is more than a glaring oversight by the JCJ leadership. The failure to have disclosed on February 10, 2012, the allocation of the judges up for review at each hearing immediately upon the determination to split these hearings into four sessions, and the failure to have disclosed that votes would be taken at the end of each session in advance, was nothing more than an attempt to limit the public voice at these hearings.
16. The actions by the chair, Senator Eric Coleman, to suggest that the general processes of the "timely" public notice of the date by date review of judges, was a matter not even a posted agenda item on the February 10, 2012 meeting of JCJ. There is no certainty that the public agenda for the first two JCJ confirmation hearings, complied with the FOI Act requirement of twenty four notice on a specified number of judges who were being reviewed on February 15, 2012 and February 17, 2012.
17. This letter is requesting that the Rules Committee co-chairs postpone the judiciary confirmation hearings until proper notice is provided and to rescind the voting which occurred on February 15, and February 17, 2012 because

- the meetings were convened without a quorum and were conducted without a quorum present of JCJ members for each of the judges up for appointment.
18. The television cameras of CT-N clearly captured on February 15 and February 17, the absence of the members of the JCJ at the confirmation hearings and provides video evidence that these public hearings captured a failure of lawyers turned legislators of their responsibilities to have removed themselves for "conflicts of interest" in casting votes for judges who they are licensed to practice law in the State of Connecticut.
 19. The absence of the posting of public minutes of the February 10, 2012 meeting of the JCJ and the failure to include the scheduling of the JCJ confirmation hearings as an agenda item, suggests a lack of public disclosure and accountability of the chairs to the public mandates of the Freedom of Information Act.
 20. Consider this quote as a shout out to the citizens of the State of Connecticut of the words of James Philpot Curran: "Eternal Vigilance is the price of Freedom."
 21. To the members of the JCJ, please consider this quote from noted British historian and Parliamentarian Baron Acton, who wrote in 1887 to his friend Bishop Mandel Creighton these words of admonition: "Power tends to corrupt; absolute power corrupts absolutely."
 22. The co-chairs of the Joint Committee on Judiciary have an especially solemn oath of office to "uphold the laws of the State of Connecticut" which is mandated of all public officials under C.G.S. 1-25 and Article VI of the Constitution of the United States in regards to holding "judicial Officers" to their own "Oath" or "Affirmation" of "This Constitution" as the "Supreme Law of this Land". Each member of the Committee has a duty to ensure that the conduct of "justice" is upheld in the State of Connecticut—which is defined in Black's law Dictionary as: the proper application of the law.
 23. With 23 members who are lawyers, do you not believe you have a responsibility as members of the Joint Committee on Judiciary and as

members of the General Assembly to apply the Freedom of Information Act to your own duties?

In recent appropriations committee hearings conducted and viewed by this citizen on CT-N last week, there were questions raised by the Office of Government Accountability Executive Director, David Guay, as to whether he had the ability to reallocate budget items related to the Freedom of Information Commission operations to other agencies under the OGA. Executive Director Guay suggested that he had rights to reallocate resources as he deemed appropriate under the establishment of the OGA office in P.A. 11-48 Section 75.

As noted, in C.G.S. 1-205 a (b):

"Notwithstanding any provision of the general statutes, the Governor shall not reduce allotment requisitions or allotments in force concerning the Freedom of Information Commission."

Since Public Act 11-48 was adopted by the legislature on or about June 30, 2011, the enforcement of the Freedom of Information Act has been negatively affected.

The Joint Committee on Judiciary consists of 45 members. Based upon research conducted since last Friday, when I addressed the members in attendance at the February 17, 2012 Joint Committee on Judiciary, there are 23 full time lawyers and part time legislators who have been appointed to the JCJ.

There are a total of 16 Republicans and 29 Democrats who sit on the JCJ.

During the course of the JCJ hearings conducted on February 15, 2012 and February 22, 2012, we observed a malaise that suggests our "public officials" are engaging in "wanton", "neglectful" or "malicious" conduct in direct conflict with the provisions of "personal liability" you have for the failure to uphold your Oath of Office, and the fiduciary responsibility that you have to Article VI of the Constitution to ensure the judiciary conducts its proceedings in accordance with the U.S. Constitution, the Constitution of the State of Connecticut and the laws of the State of Connecticut.

After sitting in the Legislative Office Building for nearly five hours last Friday, and after sending a twelve page letter to all members of the General Assembly on Wednesday, February 8, 2012 and Thursday, February 9, 2012, and being ignored by ever member of the JCJ and the General Assembly, it appears we are on a collision course in federal court for each of your failures to have conducted your duties as a "public official" with a fidelity to your Oath or Affirmation required by Article VI of the U.S. Constitution.

Last Friday, you were provided with a pocket sized edition of the Declaration of Independence and the Constitution of the United States, which was bookmarked with a copy of C.G.S. 51-14. Since last Friday, again none of the 45 members of the JCJ contacted me. Representatives Gonzalez and Representative Fox received calls or emails from me and Legislative Assistant Meredith Blake received an email from me at the conclusion of watching the CT-N rebroadcast of Friday, February 17, 2012 JCJ confirmation hearings.

After this citizen left the Legislative Office Building, one of the two co-chairs, new made a public comment to Representative Lopes of a sarcastic nature concerning "corruption", "conspiracy" and "sedition" which was clearly a further sign of the exercising of a "discretion of disrespect" behind the back of this citizen by the actions of Senator Coleman.

In an email sent to Legislative Assistant, Meredith Blake, I asked her to thank Senator Eric Coleman for throwing down the "public gauntlet" behind my back by his public derogatory commentary suggesting that Senator Coleman so disrespects his Oath of Office, that he would publicly mock the Constitution of the United States in his commentary captured on camera. Ms. Blake was asked to forward my message along to Senator Coleman, who does not accept emails from anyone except from his own constituency.

Senator Coleman has now exposed the entire committee in his audacious disrespect for the Constitution and his Oath of Office to federal suit for Constitutional and civil rights abuses captured in this letter and the failure to apply the Freedom of

Information Act to the process of public hearings under his jurisdiction as one of the two co-chairs of the JCJ.

The Freedom of Information Act C.G.S. 1-225, sets forth the specific posting schedules for regularly scheduled meetings of such committees of the legislature, including the Joint Committee on Judiciary.

In addition, there is a lawful requirement set forth in C.G.S. 1-for the posting of the minutes of such meetings of the Joint Committee on Judiciary within seven days.

The current hearings which have being conducted on February 15, 2011 and February 17, 2011 concerning the nomination of judges by Governor Dannel Malloy, for both newly nominated and those judges, both as trial judge referees and Superior and Appellate Court judges are alleged to have been conducted without proper notice.

Therefore, this letter requests that the Chairs of the Joint Committee on Judiciary comply with the proper posting of the agendas for the judiciary hearings conducted as required by law, rescind the votes of the Committee members cast, post the proper legal notice for a legislative public hearings, and reconvene the two hearings conducted on February 15, 2012 and

This letter is to challenge, whether the current postings of the on-going legislative judiciary committee hearings conforms with the letter of the law of the Freedom of Information Statutes.

If there is one committee in the legislature that should be sensitive to the proper adherence to the guidelines for the proper posting requirements required by law, it would seem that the Joint Committee on Judiciary would be aware of the lawful requirements for posting agendas for hearings with "proper legal notice".

C.G.S. 1-200 has been in existence for since the mid-1960's. Some of the representatives sitting on the JCJ were not even born yet. Perhaps, as part of their education, this letter will provide them with the bright light of elucidation.

Perhaps when Senator Coleman is served by registered mail with his federal complaint tomorrow being filed in the U.S. District Court, with the last two letters of communication to the Co-Chairs attached, he will perhaps then have a "legal civics lesson" from the mistreatment of citizens, who are sovereign in this democracy.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Nowacki", with a long horizontal flourish extending to the right.

Michael Nowacki

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